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UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

Report of the Ad Hoc Working Group on Investment and Financial Flows; Non-debt-creating Finance for Development; New Mechanisms for increasing Investment and Financial Flows on its third session

held at the Palais des Nations, Geneva,
from 10 to 14 January 1994

UNITED NATIONS

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UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT
Geneva

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New York and Geneva, 1994

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INTRODUCTION

1. The third session of the Ad Hoc Working Group on Investment and Financial Flows was held from 10 to 14 January 1994 at the Palais des Nations, Geneva.

2. In the course of its session, the Ad Hoc Working Group held 2 plenaries and 9 informal meetings.

Chapter I

PORTFOLIO EQUITY INVESTMENT AND NEW FINANCING MECHANISMS

(Agenda item 4)

3. For its consideration of this item, the Ad Hoc Working Group had before it the following documentation:

"Foreign portfolio equity investment in developing countries: current issues and prospects - report by the UNCTAD secretariat" (TD/B/WG.1/11);

"Capital markets, foreign portfolio investment and economic development (UNCTAD/GID/DF/4) (background document);

"Private financing of infrastructure projects in developing countries - build-operate-transfer (BOT) arrangements" (UNCTAD/GID/DF/5) (background document);

"Case study submitted by Nigeria" (TD/B/WG.1/Misc.3/Add.9 (vol.II));

"Case study submitted by China" (TD/B/WG.1/Misc.3/Add.11).

Seminar on portfolio equity investment and new financing mechanisms held during the session

4. During the Group's third session, a three-day seminar-type discussion took place on agenda item 4 led by invited panellists who made presentations and responded to questions on the following topics:

(a) Foreign portfolio equity investment in developing countries and countries in transition:

(i) Factors determining portfolio equity flows;

(ii) Policy issues: the role of stock markets; improving standards of emerging markets; macroeconomic and financial impact of foreign portfolio equity investment;

(iii) Prospects for portfolio equity flows: the role of host and home countries;

(b) Private financing of infrastructure projects in developing countries, with special emphasis on build-operate-transfer (BOT) arrangements:

(i) The BOT concept;

(ii) Experiences with BOTs in developing countries;

(iii) Management of the risks;

(iv) Trends and initiatives in BOTs;

(v) Ways and means to enhance the contribution of BOTs to investment in developing countries and countries in transition.

5. Following the presentations and discussions, the Chairman summed up the conclusions to be drawn (see paras. 6-29 below).

Chairman's summing up of seminar discussions

Foreign portfolio equity investment (FPEI) in developing countries and countries in transition

Factors determining FPEI flows

6. The upsurge in the flows of FPEI to emerging markets has been driven by factors specific to those markets, as well as by the global economic environment, particularly low international interest rates. International investors, aiming to maximize returns and minimize risk, have found that emerging markets offer attractive risk-adjusted returns, as well as the opportunity of diversifying portfolios.

7. Host country factors which have been crucial for investors' decisions to hold portfolios in an emerging market fall into three groups:

(1) The degree of political and macroeconomic stability;

(2) The host country's commitment to the process of economic and financial liberalization and reform;

(3) The state of development of the host country stock exchange and the institutional and regulatory framework. The following variables were found to be important: size of the local stock market, number of listed companies, liquidity, number of participants, investor protection (such as insider trading regulations), enforcement of regulations, and volatility.

8. In addition, a number of other technical factors which might act as an obstacle to FPEI were identified. These are:

- Absence of a reliable and timely settlement system;
- Periodic closing of the stock exchange;
- Lack of information on quoted stocks;
- Absence of hedging instruments, in particular on currencies, the stock exchange index, and specific securities;
- Lack of a reliable and transparent accounting and auditing system.

9. Large discrepancies between various estimates of FPEI flows to emerging markets were observed. This made it difficult to conduct a reliable analysis of FPEI flows. It was felt that this was mainly due to unsatisfactory data

collection by host countries, which were invited to improve their data recording on foreign portfolio equity investment, especially foreign direct purchases in local stock markets.

Policy issues

(a) The role of stock markets

10. Stock markets and financial intermediaries, such as banks, are complementary in mobilizing resources for corporate financing. Stock markets help reduce the cost of raising risk capital, improve the allocation of resources within the economy and enhance firms' financial structure. Stock markets, and in particular second-tier markets, are an efficient source of finance for small and medium-sized companies, although their listing opportunities are limited in many emerging markets.

(b) Strengthening of local stock markets

11. The strengthening of local stock markets requires the development and broadening of the domestic investor base and the establishment of a healthy private sector. In this respect, three points emerged during the discussion:

- Privatization has a role to play in broadening emerging markets and in increasing liquidity, particularly for countries in transition;

- A prudent regulatory framework will ensure investors' confidence in the stock market. The purpose of regulation should be to provide adequate investor protection, especially for minority shareholders. A balance should be found between self-regulation of the stock market and direct government intervention. Regulation and surveillance of the market should secure adequate disclosure and transparency;

- Stock market reforms to improve the transparency and efficiency of price dissemination are also recognised to be necessary. In parallel with these reforms, measures should be introduced to strengthen brokerage activities, such as those concerning minimum capital requirements of brokerage houses.

(c) Macroeconomic and financial impact of FPEI

12. FPEI, like any other form of capital inflow, could induce an appreciation of the real exchange rate and reduce the host country's control on monetary policy. However, in most countries, FPEI so far has had a negligible impact on these variables, as the amount of FPEI inflows in many cases represents only a small percentage of the money supply.

13. It was found that FPEI increased the efficiency of domestic stock markets through exposure to the international environment and reduced the cost of capital for domestic companies by boosting market performance. However, FPEI could increase the volatility of domestic markets.

14. It is difficult to set standards for the desirable speed and sequence of capital market liberalization across countries. However, there was a broad agreement on the merit of gradual opening of domestic stock markets to foreign investment.

Prospects for portfolio equity flows: the role of host and home countries

(a) Prospects

15. Emerging markets will continue to provide good diversification opportunities for global portfolio holders and, most likely, above-average risk-adjusted returns.

16. Due to demographic factors and economic liberalization, private pension funds have grown substantially in a number of OECD countries. Together with other institutional investors, such as insurance companies and mutual funds, pension funds will continue to be an important source of capital for emerging markets.

17. Although recent trends in FPEI in emerging markets have been partly driven by an international economic environment characterized by low world interest rates, a reversal of this situation is not likely to lead to large outflows of capital from emerging markets. It was recognized that institutional investors have a long-term investment perspective, and that they tend to adjust their exposure gradually in times of bearish markets, rather than pull out entirely.

18. Overall, it was agreed that prospects for sustainable FPEI flows are good, especially in view of the growth potential of recipient countries and the continuing progress made in improving standards in emerging markets.

(b) Role of host countries

19. In order to sustain the international interest in emerging markets, Governments in host countries could take a number of steps including:

- Transparent economic policies and commitment to a longer-term package of regulatory and market reform;
- Taxation policies which are fair and non-discriminatory for foreign investors;
- Appropriate investor protection;
- Improvement of the settlement system;
- Encouraging frequent, periodic disclosure of financial information;
- Fostering the improvement of accounting and auditing practices;
- Considering the introduction of financial derivatives.

(c) Role of home countries

20. Home countries could facilitate the future development of emerging markets by taking into account the following points:

- Allowing issues of securities in mature markets by emerging-market companies. Recent measures taken by the United States and Japan, which help improve the liquidity of privately-placed developing country securities, are a positive development;

- Relaxation of regulations imposing ceilings on the share of foreign assets in the portfolios of institutional investors.

Areas for further discussion

21. A number of issues were identified on which further intergovernmental discussion would be highly useful:

- Steps to be taken to accelerate the development of capital markets in developing countries, especially in the least developed countries;

- Appropriate market development (including the introduction of derivatives) and FPEI policies according to stages of economic development;

- Ways to improve listing procedures for small and medium-sized companies;

- Investment strategies of institutional investors and home countries' policies;

- Analysis of the impact of FPEI on exchange rates and on the volatility of domestic stock markets;

- Analysis of international accounting and disclosure rules.

Technical assistance

22. Participants suggested a few areas where technical assistance is needed:

- Advisory services for developing countries, particularly the LDCs, on appropriate policies and measures to develop and strengthen capital markets and attract FPEI;

- Seminars to be held at the country level, in association with the private sector, on the role of FPEI in the mobilization of resources and on appropriate policies to develop domestic capital markets;

- Establishment of education and research centres to study the role of stock markets and their efficient functioning.

Private financing of infrastructure projects in developing countries with special emphasis on build-operate-transfer (BOT) arrangements

23. The seminar undertook an extensive review of the BOT concept and its variants, as well as the BOT structure, financial techniques and contractual arrangements. It also considered the question of project risk. The aspects of costs and financing were not sufficiently explored. The experiences of Turkey, Pakistan and the Philippines were illustrated.

24. The seminar also reviewed the main issues facing BOT projects in developing countries and countries in transition. In many of these countries, massive infrastructure investment requirements, coupled with government fiscal constraints, have led to a strong interest in BOT financing schemes. Among the main issues to be tackled are the need to restructure some utility sectors, the need for an improved regulatory environment, problems associated with demand risks and foreign exchange risks.

25. The enabling environment in the host country was judged to largely determine successful application of the BOT concept. The degree of development of the private sector and the legal and regulatory system was found to be particularly relevant in this context.

26. While BOT schemes have been applied in the transport, telecommunications, energy, water-treatment and waste-management sectors, other areas such as health and education could also lend themselves to the BOT technique.

27. Successful application of BOT techniques requires a thorough identification and evaluation of risks by both parties, i.e. the Government and the private operator.

28. Participants agreed that the contractual aspects of BOT projects were of great importance. Dispute settlement merited particular attention.

29. There was a general agreement that BOT techniques were of increasing importance to investment programmes in developing countries and countries in transition. However, there was concern that many of these countries, especially the low-income countries, were not adequately equipped to identify, design, negotiate, and implement BOT schemes in the absence of an appropriate policy framework, adequate guidelines and managerial capacity. Many countries would require technical support from international institutions to enable them to strengthen their policy framework and institutional capabilities. The forthcoming UNIDO guidelines on the development, negotiation and implementation of BOT projects were welcomed.

Chapter II

CONSIDERATION OF HOST AND HOME COUNTRY POLICIES TO PROMOTE FOREIGN DIRECT INVESTMENT

(Agenda item 2)

30. For its consideration of this item, the Ad Hoc Working Group had before it the following documentation:

"Host country policies and measures to promote foreign direct investment: a synthesis of eight case studies - report by the UNCTAD secretariat" (TD/B/WG.1/10);

"Case study submitted by Nigeria" (TD/B/WG.1/Misc.3/Add.9);

"Case study submitted by Myanmar" (TD/B/WG.1/Misc.3/Add.10).

31. The Working Group examined the secretariat report (TD/B/WG.1/10) providing a synthesis of the policies and measures to promote foreign direct investment (FDI) described in the case studies submitted to the Working Group by eight host countries (Brazil, China, India, Mexico, Morocco, Nigeria, Philippines and Republic of Korea).

Chairman's conclusions from the case studies

32. The Working Group noted that the trend towards liberalization and market-oriented reforms had characterized economic policies in the countries concerned since the 1980s, the overriding theme being efficiency through competition. While most of the policy measures had been undertaken with broader macro-economic objectives in view, clearly these were positive elements which would be attractive to foreign investors. It was, however, hard to measure the precise and full extent to which these policies had influenced FDI flows to individual countries. Some of the reforms were too recent or were of a structural nature and would take time to be fully implemented, and it was, therefore, too early to assess their full impact on FDI.

33. The case studies revealed a high degree of policy convergence in terms of objectives but showed variations in approach, in timing and scope of reform, and in the effectiveness of specific measures in achieving desired results.

34. In the eight countries examined, the broad objective of macroeconomic policies had been the achievement of sustained growth and stability, which were essential elements of an enabling investment climate. Fiscal reform had been aimed at keeping a lid on the budget deficit mainly through a more rational use of public funds on one hand and by broadening the tax base while at the same time reducing tax rates on the other hand. The main thrust of monetary policy had been to curb excess liquidity in order to attain price stability, while maintaining flexibility to stimulate growth. A gradual process leading to full currency convertibility had characterized exchange rate policies. There had also been a reduction in foreign exchange controls and a less interventionist approach to wage and price determination.

35. Market-oriented reforms had affected a wide range of economic activities. The principal trade liberalization measures had involved significant reduction of tariff rates, simplification and rationalization of the tariff structure and a reduction or abolition of import-licensing requirements and quantitative restrictions. Industrial policy reform had been geared towards enhancing industry's contribution to development by emphasizing efficiency and competitiveness and a more outward orientation. The prominence given to the private sector was reflected in some countries in massive privatization programmes which had served as a catalyst for FDI growth. A gradual opening of the financial sector to foreigners had been taking place. Measures to liberalize interest rates and create confidence in the financial system through strengthened regulatory frameworks and higher capitalization ratios had also been adopted.

36. In recognition of the importance of developing technological capabilities not only to promote FDI but, above all, for the efficient functioning and modernization of the domestic economy, Governments had given priority to investment in infrastructure and human resource development. The growing awareness of the need for sustainable development had led to the establishment of regulatory frameworks for environmental protection.

37. The 1980s had witnessed a marked change in the attitude of developing countries towards FDI, which was reflected in the widespread trend towards liberalization of FDI regimes. Variations existed, however, in the pace, timing and degree of liberalization. Specific measures to facilitate the entry of foreign investors included the shift from positive to negative lists and simplification of administrative procedures. However, significant entry restrictions remained, especially in so-called sensitive areas such as natural resource exploitation, transport and communications, banking and financial services.

38. Governments had shown great willingness to act in areas where investors' frustrations were more pronounced, such as those concerning the free transfer of profits and dividends, repatriation of capital, dispute settlement, protection of property rights, including intellectual property rights, and the removal or reduction of performance requirements. The principle of equal treatment was now generally accepted.

39. Fiscal, financial and other incentives remained an important part of investment promotion packages. While their effects on stimulating new investments were hard to measure, they nevertheless represented substantial costs for the host countries. Much had been done to improve investment promotion activities, with emphasis on information and advisory services, the establishment of one-stop shops for investment services, marketing and the use of joint investment forums. Debt-equity swaps in conjunction with privatization programmes had had salutary effects on new investment flows. Several countries had also established export processing zones as a means of attracting FDI in export-oriented industries.

40. In recent years, the number of bilateral investment protection agreements and tax treaties had increased significantly. Membership in multilateral and regional investment arrangements were also increasingly seen as providing a stable and attractive framework and better risk coverage.

41. The Working Group concluded that the macro-economic policy framework and policies and measures specific to FDI constituted only some of the elements, albeit vital ones, in investment location decisions. Host countries' economic potential and political stability and other factors that affected the risk and profitability of investment were equally important.

Other discussions

42. A number of countries that had submitted case studies indicated changes in FDI regulations and other measures affecting FDI since the submission of their reports, and they updated some figures. Most of these changes showed that the process of liberalization was continuing.

43. The Working Group noted that most case studies had not identified areas where financial and technical assistance from bilateral and multilateral institutions would be needed. In addition, there had been no assessment of the effectiveness of home country incentives and promotional measures.

44. A number of delegates stated that the topic of discrimination deserved further consideration. Some measures in favour of foreign investors, which could be discriminatory to local firms, were sometimes provided to compensate foreign investors for the inherent disadvantages of working in a foreign environment. Moreover, competition to attract FDI had led to the granting of numerous incentives, notably tax incentives, which were not available to local companies. The views expressed by participants from the private sector during the second session of the Working Group indicated that incentives did not rate highly in the investment decision process. Another form of discrimination was the imbalance affecting local partners in joint ventures, especially small and medium-sized enterprises, which experienced difficulty in obtaining access to international financing.

45. The delegations of Algeria, Bulgaria, Romania and Turkey gave an overview of FDI policies in their countries. A common feature of these policies was a liberal framework or a relaxation of restrictions. The willingness to negotiate bilateral investment agreements was also evident. Some of these countries were already members of MIGA.

Chapter III

MULTILATERAL MEASURES TO PROMOTE FOREIGN DIRECT INVESTMENT

(Agenda item 3)

46. For its consideration of this item, the Ad Hoc Working Group had before it the following documentation:

"The role of international financial institutions in promoting non-debt-creating flows to developing countries" - report prepared by the World Bank (TD/B/WG.1/Misc.2/Add.8);

"UNIDO initiatives to promote non-debt-creating financial flows to developing countries, with particular reference to foreign direct investment" - report prepared by UNIDO (TD/B/WG.1/Misc.2/Add.9).

47. The Working Group heard statements from the representatives of UNIDO, the World Bank and UNCTAD's Programme on Transnational Corporations. The Working Group noted that all three organizations engaged in the provision of technical assistance and advisory services with regard to the promotion of non-debt-creating financial flows and FDI in particular.

48. The discussion focused on the complementarity and potential overlap of the activities of the organizations concerned. Information was supplied about cooperation between organizations and efforts to avoid overlap.

49. A number of countries described their experience with technical assistance received from these institutions, which had been found to be very valuable.

Chapter IV

ORGANIZATIONAL MATTERS

A. Opening of the session

50. The third session of the Ad Hoc Working Group was opened on 10 January 1994 by the Chairman.

B. Bureau of the Ad Hoc Working Group at its third session

51. The Bureau of the Ad Hoc Working Group at its third session was as follows:

Chairman:	Mr. J.P. Huner	(Netherlands)
Vice-Chairmen:	Mr. S. Jamaluddin	(Bangladesh)
	Mr. F.A. Gomes	(Brazil)
	Mr. G. Blehy	(Côte d'Ivoire)
	Mr. R. Krzysków	(Poland)
	Mr. W.S. Haynes	(United States of America)
Rapporteur:	Mr. E. Mercado	(Mexico)

C. Adoption of the agenda and organization of work

(Agenda item 1)

52. At the opening plenary of its third session, the Ad Hoc Working Group adopted the provisional agenda for its third session (TD/B/WG.1/9), as follows:

1. Adoption of the agenda and organization of work
2. Consideration of host and home country policies to promote foreign direct investment
3. Multilateral measures to promote foreign direct investment
4. Portfolio equity investment and new financing mechanisms
5. Provisional agenda for the fourth session of the Ad Hoc Working Group
6. Other business
7. Adoption of the report of the Ad Hoc Working Group to the Board.

D. Provisional agenda for the fourth session of the Ad Hoc Working Group

(Agenda item 5)

53. At the closing plenary of its third session, the Ad Hoc Working Group approved the provisional agenda for its fourth session (for the provisional agenda, see annex I).

54. The Chairman said that a preliminary draft for the final report to be discussed at the fourth session would be prepared by himself, with the assistance of the secretariat. In view of the short time between the third and fourth sessions, it would not be possible to respect the usual deadlines in the preparation and distribution of the draft in all languages. However, every effort would be made to provide documentation by early March.

E. Adoption of the report of the Ad Hoc Working Group to the Board

(Agenda item 7)

55. At the closing plenary of its third session, on 14 January 1994, the Ad Hoc Working Group adopted its draft report (TD/B/WG.1/L.6 and Add.1) with a number of amendments and authorized the Rapporteur to complete the report in the light of the proceedings of the closing plenary.

Annex I

PROVISIONAL AGENDA FOR THE FOURTH SESSION

1. Adoption of the agenda and organization of work

2. Preparation of the draft final report

3. Other business

4. Adoption of the final report of the Ad Hoc Working Group to the Trade and Development Board

Annex II

MEMBERSHIP AND ATTENDANCE 1/

1. The following States members of UNCTAD, members of the Ad hoc Working Group, were represented at the session:

Algeria
Argentina
Austria
Bangladesh
Belgium
Brazil
Bulgaria
China
Democratic People's Republic of Korea
Denmark
Egypt
France
Germany
Greece
Hungary
India
Indonesia
Iran (Islamic Republic of)
Italy
Japan
Libyan Arab Jamahiriya
Malaysia
Mexico
Morocco
Myanmar
Netherlands
Norway
Philippines
Poland
Portugal
Republic of Korea
Romania
Russian Federation
Saudi Arabia
Senegal
Slovakia
Spain
Sri Lanka
Switzerland
Tunisia
Turkey
United Kingdom of Great Britain and Northern Ireland
United Republic of Tanzania
United States of America
Venezuela
Zimbabwe

2. The following other States members of UNCTAD, not members of the Ad Hoc Working Group, were represented as observers at the session:

Bolivia
Ecuador
Ethiopia
Iraq
Ireland
Jamaica
Kenya
Madagascar
Nepal
New Zealand
Oman
Panama
Qatar

3. The Economic Commission for Africa and the United Nations Environment Programme were represented at the session.

4. The following specialized and related agencies were represented at the session:

World Bank
International Monetary Fund
United Nations Industrial Development Organization

The General Agreement on Tariffs and Trade was also represented.

5. The following intergovernmental organizations were represented at the session:

African, Caribbean and Pacific Group of States
European Community
European Free Trade Association
International Organization for Migration

6. The following non-governmental organizations were represented at the session:

General Category

International Alliance for Women
International Chamber of Commerce
International Federation of Business and Professional Women
Friends World Committee for Consultation (Quakers)
World Federation of United Nations Associations

Note

1/ For the list of participants, see TD/B/WG.1/INF.3.

Annex III

LIST OF PANELLISTS

Foreign portfolio equity investment in developing countries and countries in transition

1. Mr. Khairil Anuar ABDULLAH
   Director
   Securities Commission
   Kuala Lumpur
   MALAYSIA

2. Mr. George AKAMIOKHOR
   Chief Executive
   Securities and Exchange Commission
   Lagos
   NIGERIA

3. Ms. Angela COZZINI
   Baring Securities
   London
   UNITED KINGDOM

4. Mr. Guy DUPASQUIER
   President
   Epargne sans Frontières
   Paris
   FRANCE

5. Prof. Vihang R. ERRUNZA
   Faculty of Management
   McGill University
   Montreal
   CANADA

6. Dr. Hasan ERSEL
   Senior Executive Vice President
   Yapi Kredi Bank
   Istanbul
   TURKEY

7. Prof. Paul GROUT
   Department of Economics
   University of Bristol
   Bristol
   UNITED KINGDOM

8. Mr. Kwang W. JUN
   World Bank
   Washington
   UNITED STATES OF AMERICA

9. Mr. Werner KURZ
Société de Banque Suisse
Basle
SWITZERLAND

10. Mr. Richard LANG
Schroders Banque
Zurich
SWITZERLAND

11. Mr. Hugo M. LAVADOS
Director
Securities and Insurance Board
Santiago
CHILE

12. Mr. Carlos QUENAN
Epargne sans Frontières
Paris
FRANCE

13. Mr. Terrence REILLY
Private Consultant
Consultant for Capital Market Development
Connecticut
UNITED STATES OF AMERICA

Private financing of infrastructure projects in developing countries with special emphasis on build-operate-transfer (BOT) arrangements

1. Mr. Ishan Akinci
Foreign Investment Division
Undersecretariat of the Treasury
Ankara
TURKEY

2. Mr. Jeffrey Falconer
Regional Director
Rendel Palmer & Tritton
London
UNITED KINGDOM

3. Mr. Geoff Haley
Partner
S.J. Berwin & Co.
London
UNITED KINGDOM

4. Mr. Miguel Z. Patolot
Manager, Countertrade Department
Philippine International Trading Corporation
Manila
PHILIPPINES

5. Ms. Helen Payne
Barrister
S.J. Berwin & Co.
London
UNITED KINGDOM

6. Mr. Ian Reeves
Chairman
High-Point PLC
London
UNITED KINGDOM

7. Mr. M. Amjad Virk
Joint Secretary
Ministry of Finance
Islamabad
PAKISTAN

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